

# More than 600 hospitals sue over Medicare payment reductions



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November 26, 2019

## News

Hospitals from coast-to-coast have joined in a federal lawsuit claiming HHS Secretary Alex M. Azar II has illegally maintained a reduction in Medicare reimbursements beyond its congressional mandate.

More than 600 hospitals are named as plaintiffs in the suit filed November 11 in U.S. District Court for the District of Columbia against Azar in his official capacity.

The suit claims that Azar exceeded his authority by failing to reverse a 0.7 percent reduction in Medicare hospital reimbursements in Federal Fiscal Years 2018 and 2019, resulting in “massive savings” for the Centers for Medicare and Medicaid Services (CMS) of “roughly” \$840 million a year as a whole, or about \$200,000 average a year per Medicare-participating hospital. The suit sets the losses accrued by the plaintiff hospitals at \$124.4 million a year.

At its core, the suit claims Azar and HHS conflated three separate acts of Congress meant to offset probable overpayments resulting from 2008 administrative changes to the Inpatient Prospective Payment System in order to justify the continued reductions.

The plaintiffs argue these adjustments were meant to be limited to 2010, 2011, 2013, and 2014 to 2017, to specifically recover these overpaid funds. These negative adjustments were meant to be offset by positive adjustments beginning in FY 2018, but CMS failed to comply with Congressional action to restore 0.7 percent of Medicare reimbursement payments and appear to be maintaining the reduction into FY 2020, according to the filing.

The suit claims five causes of action and asks the court for an order declaring Azar’s failure to restore the 0.7 percent as unlawful and direct him to apply a positive 0.7 percent to FFYs 2018 and 2019 to offset the negative adjustment, as well as the cost of the litigation and any other relief the court deems appropriate.

This is not the only time the agency has been taken to court over its handling of Medicare reimbursements, the U.S. Supreme Court ruled in favor of a group of hospitals in June saying that HHS must follow the notice and comment rulemaking procedures before changing payment calculations.

Hospitals across the country are also legally challenging the Trump administration’s recent price transparency rules.

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